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THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re

SARAH HOOVER,

Debtor.

USDC Number: 3:21-cv-05154-BHS

Case No.: 19-42890-MJH

Internal Appeal Number: 21-T003

Adversary No.: 20-04002-MJH

SARAH HOOVER,

Plaintiff,

vs.

**DECLARATION OF EMILIE K.
EDLING IN SUPPORT OF
DEFENDANT-APPELLANTS'
NOTICE TO WITHDRAW
PENDING MOTION**

QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON,
PHH MORTGAGE CORPORATION
D/B/A PHH MORTGAGE SERVICES,
HSBC BANK USA, N.A., AS
TRUSTEE OF THE FIELDSTONE
MORTGAGE INVESTMENT TRUST,
SERIES 2006-2, NEWREZ, LLC, AND
IH6 PROPERTY WASHINGTON, L.P.
D/B/A INVITATION HOMES

Defendants.

DECLARATION OF EMILIE K. EDLING IN SUPPORT OF
DEFENDANT-APPELLANTS' NOTICE TO WITHDRAW PENDING
MOTION
USDC No. 3:21-cv-05154-BHS
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DECLARATION OF EMILIE K. EDLING

I, Emilie K. Edling, do hereby declare:

1. I am more than 18 years of age, am competent to make this declaration, and have personal knowledge of the facts set forth in this declaration.

2. I am an attorney of record for Appellants PHH Mortgage Corporation D/B/A PHH Mortgage Services, HSBC Bank USA, N.A., as Trustee of the Fieldstone Mortgage Investment Trust, Series 2006-2, and NewRez, LLC (collectively, the “Appellants”).

3. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from Defendants’ Notice of Motion and Motion to Stay Proceedings Pending Appeal; Memorandum of Points and Authorities in Support Thereof (Doc. 95). The excerpts have been selected to reflect portions of the briefing before the Bankruptcy Court in which Appellants argued and provided authorities indicating that the instant appeal is from a final order appealable as a matter of right.

4. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts of Defendants’ Reply in Support of Motion to Stay and Briefing re: Discovery (Doc. 107). As with Exhibit 1, the excerpts have been selected to reflect portions of the briefing before the Bankruptcy Court in which Appellants argued and provided authorities indicating that the instant appeal is from a final order appealable as a matter of right.

5. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the official transcript of the March 29, 2021 hearing on Defendants’ Motion to Stay Proceedings Pending Appeal, wherein the Bankruptcy Court ruled that the instant appeal was taken from a final order.

DATED: April 14, 2021, at Portland, Oregon.

HOUSER LLP

/s/ Emilie K. Edling

Emilie K. Edling, WSBA No. 45042

EXHIBIT 1

THE HONORABLE MARY JO HESTON

Chapter 13

Date of Hearing: April 8, 2021

Time of Hearing: 1:00 PM

Hearing Location: Telephonic

Response Due: April 1, 2021

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re

SARAH HOOVER,

Debtor.

Chapter 13

Case No.: 19-42890-MJH

Adversary No.: 20-04002-MJH

SARAH HOOVER,

Plaintiff,

vs.

QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON,
PHH MORTGAGE CORPORATION
D/B/A PHH MORTGAGE SERVICES,
HSBC BANK USA, N.A., AS TRUSTEE
OF THE FIELDSTONE MORTGAGE
INVESTMENT TRUST, SERIES 2006-2,
NEWREZ, LLC, AND IH6 PROPERTY
WASHINGTON, L.P. D/B/A
INVITATION HOMES

Defendants.

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO STAY
PROCEEDINGS PENDING APPEAL;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

DEFENDANTS' NOTICE OF MOTION AND MOTION TO STAY
PROCEEDINGS PENDING APPEAL; MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF

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1 Additionally, Plaintiff's counsel have pressed to proceed with unwinding the nonjudicial
2 foreclosure as required by the Court's recent order, yet unwinding a non-judicial foreclosure is a
3 cumbersome, complicated effort that likely cannot be done with a single document, may require
4 court assistance, and is not a process free from legal dispute¹. Defendants will need to ensure
5 that the recorded ownership interest in the Property be returned to the party who held that interest
6 prior to the sale, and also ensure that all lien interests in the Property that were previously wiped
7 clean by the foreclosure sale are reinstated. At the same time, the parties plan to mediate in the
8 near future in hopes of reaching a resolution prior to trial of this matter, and Defendants' counsel
9 has been diligently working to find a mediator and date for mediation that the parties can agree
10 to. In spite of the upcoming plan to mediate, the difficulties in unwinding the nonjudicial
11 foreclosure sale, and the fact that there is a pending appeal as a matter of right, Plaintiff's
12 counsel will not agree to a stay to save the parties time and expense and protect the rights of the
13 parties pending mediation and/or appeal. Accordingly, Defendants bring the instant motion to
14 stay to this Court's attention.

15 IV. POINTS AND AUTHORITIES

16 A. A Stay is Necessary Given the Likelihood that this Court has No Jurisdiction 17 to Proceed Following Appeal from a Final Order

18 In the Ninth Circuit, bankruptcy court orders denying or granting motions to grant
19 annulment of an automatic stay, interpreting the scope of an automatic stay, and disposing of
20 property are final orders appealable as a matter of right.² Given the U.S. Supreme Court's recent

21 ¹ As of this weekend, the parties are negotiating an option that appears viable and may reach an
22 agreement on how to unwind the foreclosure sale and preserve appellate rights prior to a hearing
23 on this matter; however, Defendants continue to contend that a stay is the more appropriate
24 approach.

25 ² See *In re Nat'l Envtl. Waste Corp.*, 129 F.3d 1052, 1054 (9th Cir. 1997) ("Orders granting
26 or denying relief from the automatic stay are deemed to be final orders;" also ruling that
decisions regarding annulment of stay are final orders appealable as of right); *In re Rogers*,
11 F. App'x 840, 842 (9th Cir. 2001) (noting ordinarily a ruling on annulment of stay would
be a final order appealable as a matter of right); *Moore v. ING Bank, FSB*, No. C11-139Z,

1 ruling in accord two months ago, both Ninth Circuit and Supreme Court precedent indicate that
2 this Court's February 8, 2021 Order and Memorandum determining the scope of the automatic
3 stay and denying the motion to annul it were final and appealable as a matter of right. *Ritzen*
4 *Grp., Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582, 592, 205 L. Ed. 2d 419 (2020) (holding
5 denial from a motion for relief from stay was immediately appealable as a matter of right.)
6 Further, orders requiring a party to immediately turn over property to a Debtor are immediately
7 appealable as a matter of right because such an order "resolves and seriously affects substantive
8 rights." *In re Even St. Prods. Ltd.*, No. LACV 17-1756 JGB, 2020 WL 4559511, at *5 (C.D.
9 Cal. Aug. 6, 2020).³ Here, the Court has issued an order requiring Defendants to immediately
10 cooperate with Plaintiff in unwinding the nonjudicial foreclosure sale, which will result in
11 depriving both Defendants and IH6 of a property interest and is another final order, appealable as
12 a matter of right.

13 The filing of a notice of appeal from a final order is an event of jurisdictional significance
14 and confers jurisdiction on the court hearing the appeal, while divesting the bankruptcy court "of
15 its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer*
16 *Disc. Co.*, 459 U.S. 56, 58 (1982) (per curiam) ("a federal district court and a federal court of
17 appeals should not attempt to assert jurisdiction over a case simultaneously.") *See also In re*
18 *Silberkraus*, 336 F.3d 864, 869 (9th Cir. 2003) (noting that bankruptcy court is generally

19
20 2011 WL 3586152, at *3 (W.D. Wash. Aug. 16, 2011) (noting 9th Circuit precedent that
21 denial or grant of relief from automatic stay is a final order); *In re Aheong*, 276 B.R. 233,
22 250 (BAP 9th Cir. 2002) (holding decisions regarding annulment of stay are appealable as a
23 matter of right). *See also United States v. Nicolet, Inc.*, 857 F.2d 202 (3d Cir.1988) (holding
24 decisions concerning application of automatic stay are appealable as a matter of right);
25 *Lomas Financial Corp. v. Northern Trust Co.*, 932 F.2d 147, 151 n. 2 (2d Cir.1991) (same).

26 ³ *See also In re Stasz*, 520 F. App'x 547 (9th Cir. 2013) (holding order compelling turnover of
estate property is immediately appealable); *Matter of Simpson*, 36 F.3d 450, 452 (5th Cir.
1994) ("We have held that a judgment compelling a defendant to turn over property is
appealable as of right pursuant to 28 U.S.C. § 158(a)")

DEFENDANTS' NOTICE OF MOTION AND MOTION TO STAY
PROCEEDINGS PENDING APPEAL; MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF
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EXHIBIT 2

THE HONORABLE MARY JO HESTON

Chapter 13

Date of Hearing: March 29, 2021

Time of Hearing: 1:00 PM

Hearing Location: Telephone

Response Due: March 22, 2021

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re

SARAH HOOVER,

Debtor.

Chapter 13

Case No.: 19-42890-MJH

Adversary No.: 20-04002-MJH

SARAH HOOVER,

Plaintiff,

vs.

**DEFENDANTS' REPLY IN
SUPPORT OF MOTION TO STAY
AND BRIEFING RE: DISCOVERY**

QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON,
PHH MORTGAGE CORPORATION
D/B/A PHH MORTGAGE SERVICES,
HSBC BANK USA, N.A., AS
TRUSTEE OF THE FIELDSTONE
MORTGAGE INVESTMENT TRUST,
SERIES 2006-2, NEWREZ, LLC, AND
IH6 PROPERTY WASHINGTON, L.P.
D/B/A INVITATION HOMES

Defendants.

Defendants PHH Mortgage Corporation D/B/A PHH Mortgage Services; NewRez, LLC
(individually, "NewRez"); and HSBC Bank USA, N.A., as Trustee of the Fieldstone Mortgage

DEFENDANTS' REPLY IN SUPPORT OF MOTION TO STAY AND BRIEFING
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Investment Trust, Series 2006-2 (individually the “Trust”) (collectively, “Defendants”) hereby submit the following Reply in Support of their Motion to Stay and responsive discussion to this Court’s request for briefing on whether additional discovery should be allowed. This briefing is supported by the Declaration of Emilie K. Edling, submitted concurrently herewith, the Court’s record, and the following points and authorities.

II. REPLY IN SUPPORT OF MOTION TO STAY

As discussed in Defendants’ Motion and below, a stay in this matter is warranted given the jurisdictional concerns raised by Defendants’ appeal, the strong arguments supporting the appeal, and irreparable harm that will occur in the absence of a stay.

A. A Stay is Necessary Given the Likelihood that this Court has No Jurisdiction to Proceed Following Appeal from a Final Order

Plaintiff fails to offer this Court any comparable bankruptcy court authorities in support of its position that this Court’s February 8, 2021 Memorandum and Order (collectively, “Order”) cannot constitute (at least in-part) a “final order.” In addition to the cases identified in Defendants’ initial motion, while searching for additional guidance on this issue, Defendants located a binding Ninth Circuit case directly on point, in which the Ninth Circuit ruled that a bankruptcy court’s finding that conduct violated the automatic bankruptcy stay under § 362(k) was a final order appealable as a matter of right even if the bankruptcy court deferred a ruling on damages for the violation to a later date. *See In re Perl*, 811 F.3d 1120, 1123 (9th Cir. 2016). In *In re Perl*, an LLC purchased a residence at a foreclosure sale and then obtained an unlawful detainer judgment against the resident-debtor, who then filed for bankruptcy in order to avoid a lockout pursuant to the unlawful detainer judgment. Before the Court could hold a hearing on the LLC’s motion for relief from stay, the LLC proceeded with the lockout and evicted the

DEFENDANTS’ REPLY IN SUPPORT OF MOTION TO STAY AND BRIEFING
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debtor. *Id.* at 1124. Following a motion by the debtor, the bankruptcy court found that the LLC had violated §362(k), *see id.*, and advised that it was considering whether to impose damages, sanctions, and punitive damages under § 362(k),¹ but postponed that decision to a “subsequent hearing scheduled for the following month.”²

The LLC appealed, and the BAP Court affirmed. On review, the Ninth Circuit considered whether it had jurisdiction, analyzing at length whether the order in the case was a final order, and holding: “Notwithstanding the fact that no financial penalty or sanction has yet been assessed against Eden Place, the bankruptcy court's determination that Eden Place violated the automatic stay is a substantive ruling with real effects, including money damages that could be sought by Perl indefinitely. The bankruptcy court's order determined the discrete issue of whether there was a stay violation, which was the only issue litigated in the bankruptcy proceedings and before the BAP.” *Id.* at 1126-27 (internal citations omitted).³ The majority of the panel disagreed with one dissenting opinion, noting the dissenting judge was relying on case law from general civil litigation, rather than the specific bankruptcy contest, where the rules on

¹ Both the Ninth Circuit BAP and the dissenting opinion in *In re Perl* specifically note that the bankruptcy court's decision and indication that it would consider whether damages were appropriate at a future hearing date invoked its power under § 362(k) rather than § 105. *See In re Perl*, 513 B.R. 566, 572 (B.A.P. 9th Cir. 2014); *In re Perl*, 811 F.3d 1120, 1133 (9th Cir. 2016) (Watford, J., dissenting) (noting bankruptcy court was explicitly considering imposition of punitive damages, which are available only under § 362(k), and that § 105(a) would not have been appropriate).

² *See id.* at 1133 (Watford, dissenting) (stating background procedural facts). *See also id.* (noting at “the hearing on Perl's motion, the court noted that it was considering the imposition of punitive damages, which are available under § 362(k)); *id.* at 1223 (““The bankruptcy court stayed its determination regarding contempt sanctions because Perl had not yet offered evidence of damages.”)

³ Similar to the instant case, the underlying bankruptcy case was dismissed because the debtor failed to comply with the requirements for the case to proceed. *In re Perl*, 811 F.3d 1120, 1131 (9th Cir. 2016) (Watford, J., dissenting).

1 finality “are different.” *Id.* at 1127. The Court held: “There is no question that the discrete issue
2 addressed by the bankruptcy court—violation of the automatic stay—has been definitively and
3 finally resolved. Resolution of that issue is as final as it will ever be in this case.” *In re Perl*, 811
4 F3d 1120, 1127 (9th Cir. 2016).

5 Defendants can locate no authority overruling this published opinion on the finality of a
6 decision finding a §362(k) violation, and Plaintiff has provided none. Plaintiff cites *In re*
7 *Marino*, 949 F.3d 483, 488 (9th Cir. 2020), which has similarities; but that case specifically
8 concerned the standard for the Ninth Circuit’s review from a BAP order remanding with
9 instructions, and also concerned a discharge violation rather than a § 362(k) violation. *Id.*

10 Consistent with *Perl*, this Court has definitively and finally resolved the question of
11 whether Defendants violated the automatic stay in this case. This Court has also finally resolved
12 Defendants’ motion to annul the automatic stay, and ordered the turnover of Property – orders
13 that Ninth Circuit precedent indicates are final and which Plaintiff fails to address. (*See* Motion
14 at pages 5-7 (citing authorities).) At the very least, this Court’s decision terminated the portion
15 of the case resolving Defendants’ Motion to Annul the Stay, because there was nothing further
16 for the Court “to do” on that motion (other than enforce it), and because this Court definitively
17 ordered that title in the Property must be changed to its pre-foreclosure state. *Ritzen Grp., Inc. v.*
18 *Jackson Masonry, LLC*, 140 S. Ct. 582, 592, 205 L. Ed. 2d 419 (2020).⁴ Accordingly, this Court
19 should stay proceedings in the case pending appeal from a final order.

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⁴ Plaintiff contends the motion was not a discrete dispute or procedural unit on the sole grounds
that it was consolidated for consideration at the same time as the parties’ summary judgment
briefing, but provides no authority supporting this argument. In *Ritzen Grp.*, the Supreme Court
acknowledged that controversies in a bankruptcy matter may be “linked” such that they are
dependent on the outcome of one another, *see id.* 140 S. Ct. at 587, which is the case here in that
whether there is liability for violation of the automatic stay is dependent in-part on whether the

EXHIBIT 3

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

IN RE: Case No. 19-42890-MJH
SARAH HOOVER, Chapter 13
Debtor.
SARAH HOOVER, Adv. No. 20-04002-MJH
Plaintiff,
v.
QUALITY LOAN SERVICE 1717 Pacific Avenue, Suite 2100
CORPORATION OF WASHINGTON, Tacoma, WA 98402
et al.,
Defendants. Monday, March 29, 2021
1:01 p.m.

TRANSCRIPT OF MOTION FOR STAY PENDING APPEAL;
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF
#3:21-cv-05154-BHS
BEFORE THE HONORABLE MARY JO HESTON VIA TELECONFERENCE
UNITED STATES BANKRUPTCY COURT JUDGE

TELEPHONIC APPEARANCES:

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1 appeal, because an appellate court won't have control over the
2 third party.

3 THE COURT: All right. Ms. Henry or Mr. Anderson,
4 would you like to add anything at all to the pleadings?

5 MS. HENRY: Your Honor, we are comfortable resting on
6 the briefing, and we only want to reiterate that we brought
7 that motion to strike because we thought that 20 pages of the
8 reply was excessive, and we just want to preserve that should
9 there be a need for an appeal.

10 THE COURT: Sure. I understand.

11 MS. EDLING: And, Your Honor -- Your Honor, can I say
12 one additional thing? On reflection on the discovery issue,
13 we've been thinking about it and are more inclined to request
14 that the Court just open discovery for everybody rather than
15 take the position of no further discovery. I know we were
16 leaning that way in the briefing, so I want to just clarify
17 that for the Court.

18 THE COURT: Okay. Thank you, Ms. Edling.

19 All right. I'm prepared to rule. I'm going to take
20 the stay pending appeal issue first, and then we'll address the
21 issues for the status conference and the further proceedings,
22 if any.

23 The Court and the parties are intimately familiar
24 with the facts and current disposition of this case from my
25 prior decision from February 8th, 2021 and the March 19th order



1 denying the motion for reconsideration, so I won't repeat much
2 of the facts and analysis here.

3 The defendants, PHH Mortgage Corporation, HSBC Bank
4 USA, N.A. and NewRez LLC, which I will refer to as "PHH," are
5 seeking a stay of all proceedings in this case pending appeal
6 and the resolution of a discovery dispute over punitive damages
7 between PHH and Ms. Hoover. The Court will address the stay
8 pending appeal first and then turn to the discovery and other
9 issues related to remaining matters.

10 First, to the issue of whether PHH has satisfied its
11 burden of proof to obtain a stay of proceedings pending its
12 appeal of the Court's February 8th, 2021 decision. Federal
13 Rule of Bankruptcy Procedure 8007 governs granting stays
14 pending appeal for adversary proceedings and contested matters.

15 "A court's determination on a motion for stay pending
16 appeal is an exercise of judicial discretion dependent on the
17 circumstances of a particular case," Nken v. Holder, 556 U.S.
18 418, 433 (2009).

19 To determine whether a stay is appropriate, courts
20 balance four factors: First, whether the stay applicant has
21 made a strong showing that the appeal is likely to succeed on
22 the merits; second, whether the applicant will be irreparably
23 harmed absent a stay; third, whether issuance of a stay will
24 substantially injure the other parties interested in the
25 proceeding; and fourth, where the public interest lies. That



1 also is the standard as set forth in Nken, 556 U.S. at 434.

2 The first two factors are the most critical. If an
3 applicant satisfies the first two factors, the inquiry then
4 calls for assessing the harm to the opposing party and weighing
5 the public interest. Again, that's a quote from Nken, 556 U.S.
6 at 435.

7 The party moving for the stay has the burden on each
8 of these four factors and must convince the court the balance
9 of the four factors weighs in favor of issuing a stay, Leiva-
10 Perez v. Holder, 640 F.3d 962, 966 (9th Cir. 2011).

11 Here, PHH fails to satisfy its burden on all four
12 factors.

13 On the first factor, the moving party must make a
14 strong showing that it would succeed on the merits of appeal.
15 Lair v. Bullock, 697 F.3d 1200, 1204 (9th Cir. 2012).

16 To do so, the court must find there is a substantial
17 case for relief on the merits and that the showing of success
18 is more than a "mere possibility of relief." That's a citation
19 to Bullock at 1204 and also Leiva-Perez at 964 through 968.

20 Here, PHH has not met its burden of establishing that
21 there is a substantial case for relief on the merits on any of
22 its argument. In this Court's decision and order denying PHH's
23 motion for reconsideration, the Court found that the sale
24 violated the stay and was void. PHH willfully violated the
25 automatic stay, and PHH was not entitled to annulment of the



1 denied. However, despite PHH not being entitled to a stay, the
2 Court now turns to the PHH's finality arguments because they
3 affect this Court's jurisdiction over future proceedings in
4 this adversary proceeding.

5 There are three cases the Court will briefly address
6 on finality in this context: Bullard and Ritzen from the U.S.
7 Supreme Court and the Ninth Circuit's In re Perl.

8 First, Bullard, 575 U.S. 496 (2015), which states
9 that Congress has long provided that orders in a bankruptcy
10 case may be immediately appealed if they finally dispose of
11 discrete disputes within larger cases.

12 Second, In Ritzen, the U.S. Supreme Court stated that
13 the precise issue the court decided is does a creditor's motion
14 for relief from automatic stay initiate a distinct proceeding
15 terminating a final, appealable order when the bankruptcy court
16 rules dispositively on the motion. That's Ritzen setting forth
17 the issue at 140 S. Ct. at 586.

18 The Supreme Court answered this question "yes." It
19 held that the adjudication of a motion for relief from the
20 automatic stay forms a discrete procedural unit within the
21 abusive bankruptcy case. That unit yields a final appealable
22 order when the bankruptcy court unreservedly grants or denies
23 relief.

24 Lastly, In re Perl involved a bifurcated dispute
25 between two parties that first addressed liability for willful

1 violation of the automatic stay under Section 11 U.S.C.
2 362(k)(1), similar to the case at hand. There, the bankruptcy
3 court's order determined the discrete issue of whether there
4 was a willful violation of the stay, which was the only issue
5 litigated in the bankruptcy proceeding and therefore before the
6 BAP. As a practical matter, resolution of that issue resolved
7 the entire case and thereby qualified as a final decision to
8 finality in the bankruptcy context. There was no question that
9 the discrete issue addressed by the bankruptcy court violation
10 of the automatic stay had been definitively and finally
11 resolved. Resolution of that issue was as final as it ever
12 would be in that case. That's a quotation from In re Perl, 811
13 F.3d 1120, 1127 (9th Cir. 2016).

14 Determining the finality of an order in bankruptcy
15 requires a complex analysis, particularly in a case like we
16 have here with multiple parties and somewhat different postures
17 on the various claims in the proceeding. Nonetheless, under
18 the U.S. Supreme Court and this Circuit's precedents, the Court
19 concludes that its order is final as to the determination that
20 the stay was violated and the sale is void, the determination
21 that PHH willfully violated the stay and caused damage to the
22 debtor in an undetermined amount under 362(k), and the denial
23 of the motion to annul the automatic stay.

24 PHH has filed a notice of appeal of these three
25 issues. Thus, PHH's notice of appeal likely divests this Court



1 of jurisdiction pending appeal of all proceedings pertaining to
2 these issues. This necessarily includes the Court's ability to
3 continue adjudicating damages against PHH for the willful
4 violation of the stay under 362(k) and whether IH6 willfully
5 violated the stay under 362(k) because although IH6 is not a
6 party to the appeal, there cannot be a willful violation of the
7 stay without a stay violation in the first instance.

8 What the appeal does not stay, however, is execution
9 and compliance with the Court's order. See 10 Collier on
10 Bankruptcy 8007.02 (16th ed. 2020), stating if the judgement
11 awards money or property, it may be executed upon unless
12 stayed.

13 Specifically, this Court ordered that the defendants
14 shall cooperate with Ms. Hoover and her counsel to immediately
15 take all steps necessary to undo the foreclosure sale of the
16 Bonney Lake Property. Because the Court has denied PHH's
17 motion to stay such proceeding, it intends to enforce this part
18 of its earlier entered decision.

19 Accordingly, discovery on the damages issue against
20 PHH for willful violation of the automatic stay under 362(k) is
21 suspended in light of the Court's ruling on finality. Further
22 suspended is adjudication of whether IH6 willfully violated the
23 automatic stay.

24 The Court will hold a status conference to ensure
25 that the order concerning undoing the foreclosure sale and



1 restoring the property to its position prior to the void sale -
2 - in other words, titled back to the Suleiman Trust -- shall
3 occur within 14 days of this hearing, and the Court will set a
4 status conference and enter an order on today's ruling. And
5 the dates I have available for a status conference are
6 preferably on the 20th at 2:30 p.m. and the 19th at 11 or 2
7 p.m. or possibly on the 23rd.

8 All right. So any questions?

9 MR. NORMAN: Your Honor, Robert Norman. Those dates
10 are fine with me, the 19th, 20th, or the 21st.

11 THE COURT: All right. Ms. Henry?

12 MS. HENRY: The 20th -- the 19th is not good. The
13 20th is fine. And what did you say, the 21st or the 26th?

14 THE COURT: No, the 23rd. If everyone's available on
15 the 20th, that would be my preference, at 2:30.

16 MS. HENRY: That would be fine.

17 THE COURT: All right. Do the parties want to talk
18 any further about where you're at on transferring title back to
19 the trust?

20 I just want to clarify, Ms. Henry, that I think the
21 obligation is to get it back to the trust, which is where it
22 was prior to the void sale.

23 MS. HENRY: Okay. I'm fine with that ruling, Your
24 Honor.

25 THE COURT: Okay.

1 MS. HENRY: I will say our only issue is -- well, I
2 guess it'll be talk about at the status conference, right?

3 THE COURT: Yeah.

4 MS. HENRY: Okay.

5 THE COURT: All right, thank you.

6 MR. NORMAN: Thank you, Your Honor.

7 MS. EDLING: Thank you, Your Honor.

8 (Proceedings concluded at 1:28 p.m.)

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22 **C E R T I F I C A T I O N**

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24 I, Alicia Jarrett, court-approved transcriber, hereby
25 certify that the foregoing is a correct transcript from the



1 official electronic sound recording of the proceedings in the
2 above-entitled matter.

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Alicia J. Jarrett

7 ALICIA JARRETT, AAERT NO. 428

DATE: April 5, 2021

8 ACCESS TRANSCRIPTS, LLC

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CERTIFICATE OF SERVICE

On April 14, 2021, I served the foregoing document(s): DECLARATION OF EMILIE K. EDLING IN SUPPORT OF DEFENDANT-APPELLANTS' NOTICE TO WITHDRAW PENDING MOTION, in the manner described below:

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 14, 2021


Rachel M. Perez